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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,598	08/05/2003	David T. Crook	10020111-3	6568

7590 10/20/2004  
AGILENT TECHNOLOGIES, INC.  
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Intellectual Property Administration  
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EXAMINER
HOLLINGTON, JERMELE M

ART UNIT	PAPER NUMBER
2829	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/634,598

Applicant(s)

CROOK ET AL.

Examiner

Jermele M. Hollington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6 and 8 is/are rejected.
- 7) ☒ Claim(s) 4 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Double Patenting***

1. Applicant is advised that should claim 1 be found allowable, claim 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: in line 9, the limitation “the second hold” should be changed to --the second hole--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5-6, and 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Nanzai (4801876).

Regarding claims 1 and 8, Nanzai discloses [see Fig. 6] an assembly (fixture 5) comprising: a first probe plate (fixture member 51) including a first hole (through hole 51a) extending through the first probe plate (51) [see Fig. 6], the first hole (51a) extending through the

first probe plate (51) including a first flange area (bearing 10) accommodating deflection of a probe (probe pin 3); and a second probe plate (fixture member 52) positioned below the first probe plate (51), the second probe plate (52) including a second hole (through hole 52a) extending through the second probe plate (52) [see Fig. 6], the second hole (52a) extending through the second probe plate (52) including a second flange area (bearing 10) [see col. 4, lines 47-49] accommodating deflection of the probe (3) wherein the probe (3) positioned in the first hole (51a) extending through the first probe plate (51) and positioned in the second hole (52a) extending through the second probe plate (52), the probe is (3) capable of movement (vertical movement) [see col. 4, lines 46-49] by deflecting within the first flange area (10) accommodating deflection of the probe (3) and deflecting within the second flange area (10) accommodating deflection of the probe (3).

Regarding claim 5, Nanzai discloses the first hole (51a) extending through the first probe plate (51) is a center-drilled hole [see Fig. 6].

Regarding claim 6, Nanzai discloses the second hole (52a) extending through the second probe plate (52) is a center-drilled hole [see Fig. 6].

### ***Conclusion***

5. Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 9-11 are allowed over the prior art.

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7. The following is a statement of reasons for the indication of allowable subject matter: regarding claim 4, the primary reason for the allowance of the claim is due to the fact that a horizontal movement is less than or equal to 0.071 inches.

Regarding claim 7, the primary reason for the allowance of the claim is due to the fact that the first probe plate comprises a ground foil coupled to the first probe plate and providing a pathway to ground.

Regarding claim 9, the reason for the allowance of the claim is due to a method having a step of deflecting the probe horizontally thereby producing an offsetting by adjusting the first probe plate horizontally within the first flange and adjusting the probe horizontally within the second flange. Since claims 10-11 depend from claim 9, they also considered containing allowable subject matter.

8. Applicant's arguments filed July 27, 2004 have been fully considered but they are not persuasive.

The applicants' argue: "Nanzai does not disclose a first flange area and a second flange area capable of accommodating the horizontal deflection of the probe as claimed in amended claim 1."

In response to the above arguments, the examiner will like to note to the applicants that the limitation "capable of accommodating the horizontal deflection of the probe" is not a positive limitation. The recitation that an element is "capable of" performing a function is not a positive limitation but only involve the ability to so perform. It does not constitute a limitation in any patentable sense. To further the prosecution of the case, the examiner will like to suggest to the applicants to maybe deleting the limitation "capable of" in claims 1, 8 and 9.

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Since the examiner is not changing the prior art, the following is being applied.

9. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

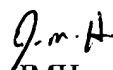
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermele M. Hollington whose telephone number is (571) 272-1960. The examiner can normally be reached on M-F (9:00-4:30 EST) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Tokar can be reached on (517) 272-1812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jermele M. Hollington  
Examiner  
Art Unit 2829

  
JMH  
October 18, 2004

  
**ERNEST KARLSEN**  
**PRIMARY EXAMINER**